

Is this true?

If so the governments credibility is on the line. If no one addresses this, we'll be sending a horrible message. Crime should not pay... Especially from the federal gov't.

The Bottom Line

Stealing the Show

WorldCom was so corrupt that it should have been shut down. Now fraud is compounded by farce: The government is actually rewarding the company!

By James J. Cramer

How’s this for an idea for a play? An outspoken, flamboyant entrepreneur and a nerdy accountant type whip up the ultimate scam to overfinance a guaranteed-to-fail flop production. They sell billions of dollars in stakes in their doomed enterprise, with the intent of pocketing as much as possible from the production in the interim. But then their outrageous brainchild becomes a smash hit, and even they can’t stop it, no matter how much they loot and how many crimes they commit to cover it up.

On Broadway, they call this play—about the creation of Springtime for Hitler—The Producers, and it may be the biggest hit ever. On Wall Street, we call our play about the creation of WorldCom “the new MCI” (as WorldCom now wants to be known)—and it is definitely our biggest fraud ever. They couldn’t be more alike. Our version’s even got its own Max Bialystock and Leo Bloom. We call them Bernie Ebbers, the former CEO, and Scott Sullivan, the former CFO, the outside and inside actors who pull off the whole production in such splendid fashion that it takes four years to find out the darned thing wasn’t making billions but losing billions!

Ah, but there is one big difference: Unlike in the fictional Producers, in our version, crime pays. Everybody gets away with everything. The bad guys keep the money because the judicial system’s stacked in favor of white-collar criminals; juries aren’t well educated enough to understand these monstrous financial crimes. And the production, WorldCom, lives on despite the stupendous fraudulence and outrageous criminality, because no one in the whole apparatus of the prosecution has the guts to shut it down—and the opponents of the production, Verizon and AT&T, are hated monopolists, whom no one wants to help out.

In our Wall Street comedy, WorldCom keeps running and running and running because it has a benefactor that Bialystock and Bloom could only dream of: the federal government. That’s right, despite committing \$11 billion in fraud, by far the largest in U.S. history, WorldCom continues to operate, because its largest client, the United States, just keeps awarding it more and more business, including the incredibly lucrative telephone-system contract in Iraq.

It gets worse. Despite two voluminous reports released last week that detail how our Bialystock and Bloom cajoled some \$40 billion in investment for their fraudulent enterprise, another arm of the U.S. government, the Securities and Exchange Commission, has told other arms of the prosecution to stay away and not to slow the process that would spring this “new MCI” from bankruptcy quickly. That’s right, the SEC has greased this one by imposing a token fine that represents a tiny fraction of what the company should owe given its myriad transgressions. Soon the company will be virtually

debt-free, allowing it to emerge as a vibrant and vicious competitor to those companies that played by the rules it flouted. How could this comedy turned tragedy unfold right in front of us without a single government official standing in its way? How could a fraudulent enterprise that has helped destroy the pricing of one of America's greatest and most important industries, telecommunications, survive to prosper and possibly triumph in both local and long distance?

Politics. That's why. Our Springtime for Hitler happens to have occurred at a time when the economy's soft, when too many people are out of work, and we are a year away from a presidential election. The Justice Department already wiped out one employer of 60,000, Arthur Andersen. The Justice Department can't afford to take down another 60,000 people by indicting WorldCom, even as the crimes AA committed; shredding some documents after a couple of subpoenas got issued; pale in comparison with the multiyear, multi-billion-dollar scam that Ebbers and Sullivan cooked up. And this new MCI; has the blessing of former SEC chairman Dick Breeden, who has made millions of dollars serving as the bankruptcy trustee, nursing it back to health; when it is pretty clear to all who investigated it that he should have broken up the company so the crime would not have paid. But then again, he would have made a fraction of what he's billed if he'd done the right thing. Breeden's presided over the same kind of cronyism that has defined Japan since its stock-market crash, the one that lets worthless entities survive, to wreak havoc on the solvent competitors out there. It's the model we must avoid at all costs if our economy is ever going to emerge from its current doldrums.

What should be done? President Bush should immediately suspend all government business with MCI to send a message that the government doesn't reward fraud with contracts. Then the Justice Department should demand that the company be taken out of Chapter 11 reorganization and be put in Chapter 7, for breakup and liquidation. Let the honest divisions of this dishonest company be sold in their entirety to more deserving players.

The propensity, at this time, after a year of reorganization, is to say "It is too late to do anything," as there is too much in motion to stop the process of the company coming out of bankruptcy. But that's only because it took two terrific investigators, Richard Thornburgh, the former attorney general, and William McLucas, the former SEC enforcement chief, almost a year to untangle all of the accounting frauds that WorldCom committed in order to keep the enterprise alive long enough so the execs could cash in on the chicanery. Had anyone known the extent of the fraud when it was first discovered, the company undeniably would have been shut down from the get-go. No one could have foreseen that the people at the top of this company simply would make up hundreds of millions of dollars in contracts every quarter, often with no more verification than a Post-It or a bogus e-mail as documentation of the fee. No one could have known that the company had a multi-hundred-million-dollar hush fund to pay off anybody who might blow the whistle. No one could have believed that board members as allegedly reputable as Judy Areen, the asleep-at-the-wheel dean of Georgetown Law, or Gordon Macklin, the equally clueless former NASDAQ head, could have checked off on such gross criminality. But they did. In spades. They should be ashamed, if not indicted.

Unfortunately, there is no justice to the bankruptcy process. It is

not meant to deal with systemic fraud, where all contracts are fiction and the company lends the top execs hundreds of millions of dollars that were never meant to be repaid. Bankruptcy is simply a mechanism to strip the company away from its equity holders in favor of its debt holders so the debt holders, mostly vulture investors who came in after the fraud, can make a few bucks return. There's no grown-up in the process who can say, "Wait a second, maybe this enterprise shouldn't even exist. Maybe it was so fraudulent that it deserves to die."

As it stands, we don't even know if all of the bad guys have been weeded out or if they're hanging around in WorldCom's bowels, like Baathists, to create mischief in the new company. Trustee Breeden came on my CNBC show, Kudlow & Cramer, recently to say that all of the people who abetted the criminal activity were fired. The place had been thoroughly "hosed down," he claimed. Looks like we were hosed. The very next day, the general counsel and the treasurer, two integral characters who should have caught the scam, were finally kicked out. Every day, a new abettor seems to turn up gainfully employed at the company. How could they have been allowed to keep their jobs for so long?

When the book is written on this era in which fraud became so commonplace that general counsels and treasurers didn't lose their jobs when it was discovered, the case of WorldCom will stand out as a benchmark, the gold standard, yes, the Tony winner of crime. This criminal production has legs galore. It can't be stopped no matter how tasteless, how corrupt, how insanely disgusting and morally bankrupt it might be.

And coming this fall, soon to be listed on a major exchange, you can buy all the shares you want in the new production, the downtown version of Springtime for Hitler, the New MCI. Because justice isn't only blind; it's dumb, stupid, and on the take as well.